

REMARKS

This Amendment is made in response to the Office Action of June 30, 2004 in which claims 1-24 were rejected. It is noted that claim 24 has not been explicitly rejected on any ground.

The Examiner's withdrawal of the previous rejection is noted.

Regarding the obviousness rejection of claims 1, 2, 6, 7, 11-12, 16-17 as being unpatentable over Salminen (U.S. 6,463,286) in view of Riihinen et al (U.S. 2002/0072363), the Examiner states that Salminen discloses a method of sharing load information between network controllers. However, what is claimed is radio network controllers not switching means such as the MSCs shown by Salminen in a GSM system. Here what is claimed is exchanging load information at a lower hierarchical level in a completely different architectural network, i.e., the 3GPP network shown in Figs. 1 and 2 of the present disclosure.

Even if Salminen's GSM network were comparable to the claimed architecture (which is not admitted), the Examiner's further statements are inaccurate. The phrase "a certain load condition exists" in the first step of claim 1 can best be understood by referring back to the specification where a plurality of different types of load conditions were shown to be possible and that the determination made is that a certain one of these different types of load conditions exists. Each of these different types of load conditions is indicative of the nature of the type of load condition existing. Such might include for instance interference, transport overload, processing overload, etc. Therefore, the claim has been amended to make it clear that the determination made in the first step of claim 1 of a certain load condition existing is of a certain *type of load condition* which is determined *from among a plurality of different types of load conditions indicative of the nature of the type of load*

condition. Additionally, the determining step of claim 1 has been further amended to make it clear that in addition to the determination that a certain type of load condition exists, a *common measurement load value* is also determined. The common measurement load value refers to the common measurement report and values discussed in the Background of the Invention section of the present disclosure.

Thus, claim 1 has been amended to make it clear that the common measurement load value and the certain type of load condition are distinct determinations. Such is not shown or suggested by Salminen.

The passages cited by the Examiner at column 16, lines 29-33 refer to signaling in the direction from the second radio network to the first radio network, not the reverse. Claim 1 only deals with determining and signaling steps taking place in the first radio network controller.

Claim 6 depends from claim 1 and has also been amended to more distinctly cover the steps taken in the second network controller and making it clear that the second network controller considers the certain type of load condition existing in the first radio network controller (as indicated in the received signaling) as well as the common measurement load value and the proposed action and carries out the proposed action or some other action in the second radio network controller considering the proposed action, the common measurement load value, and the nature of the certain type of load condition existing in the first radio network controller.

Similar amendments have been made to independent claims 11, 21 and 23 and their respective dependent claims 16, 22 and 24.

Even if everything said by the Examiner about Salminen were correct (which is not admitted), the reasoning provided by the Examiner for combining the teachings of Riihinen et al with the

teachings of Salminen are not convincing. The only thing said by the Examiner is that Riihinen shows a third generation architecture similar to what is claimed and that it would have been obvious to modify Salminen with the core network and 3GPP environment of Riihinen *for the purpose of properly balancing the load between two network controllers*. Taking these two references together, one has a GSM environment where circuit-switched mobile phone connections are being switched from one MSC to another and another reference where data is sent via at least one of multiple Node Bs connected to a first radio network controller and via at least one of multiple Node Bs connected to a second network controller. There is no hint or suggestion in Salminen of switching mobile connections at a hierarchical level lower than the mobile switching centers which would be comparable to the core network of 3GPP. In other words, if one of skill in the art in possession of the 3GPP architecture of Riihinen et al were to look to the teachings of Salminen, if anything, it would be suggested to transfer circuit switched connections of selected mobile phones by a negotiation between entities at the core network level of 3GPP.

Furthermore, there is nothing in Salminen or Riihinen et al that would suggest the steps of determining in a first network controller a certain type of load condition exists or signaling from that first radio network controller to a second radio network controller over a standard interface that the determined load condition exists and including a common measurement report with a common measurement load value and, in addition, that the certain type of load condition exists with a proposed action using an information element indicative thereof.

The Examiner is referred to Figs. 6 and 7 of the present application for two examples with both a common measurement load value (X%) and an information element indicative of a certain

type of load condition existing and a proposed action. The content of the additional information element is also discussed in the specification at page 5, beginning at line 14. A discussion of the examples of Figs. 6 and 7 can be found in the first two paragraphs on page 6 of the specification. Riihinen et al also fails to show anything like this.

Regarding claims 2, 7, 12, and 17, the passage cited at column 16, lines 29-30 has nothing to do with restricting data flow but rather has to do with switching voice connections of mobile phones from one MSC to another. There is nothing shown in Salminen about restricting data flow.

Withdrawal of the 35 U.S.C. § 103 rejection of claims 1, 2, 6, 7, 11-12, 16 and 17 is requested.

Regarding the obviousness rejection of claims 3-5, 8-10, 13-15 and 18-20 as being unpatentably obvious over Salminen in view of Riihinen et al and further in view of Frodigh et al (U.S. 6,381,458), even though Frodigh may show interfrequency and intersystem handover, there is nothing in any of the three references that shows or suggests using interfrequency handover or intersystem handover as a proposed action much less a proposed action among others. The passages at column 2, lines 41-45 and column 7, lines 33-36 of Frodigh do not in fact disclose interfrequency and intersystem handover.

Withdrawal of the 35 U.S.C. § 103 rejection of claims 3, 4, 8, 9, 13, 14, 18 and 19 is requested.

Regarding claims 5, 10, 15 and 20, the stop message at column 5, lines 40-45 of Salminen has nothing to do with releasing a radio bearer as would be understood in the 3GPP architecture. What is being done here is to re-register a mobile station in its home network after an overload condition ends.

Withdrawal of the obviousness rejection of claims 5, 10, 15 and 20 is requested.

Regarding the obviousness rejection of claims 21-23 as being unpatentably obvious over Riihinen et al in view of Salminen, it is noted that claim 24 has not been included in this rejection and there is no other rejection or indication of allowability of claim 24 in the Office Action.

The analysis in this rejection is somewhat different from that of the other independent claims in that Riihinen is being used as the primary reference and Salminen as the secondary reference. However, in the final analysis, Salminen is being relied upon in this rejection also for teaching that a certain load condition exists using a measurement report (citing column 16, lines 30-33) and a proposed action (citing column 16, lines 29-31) using an information element indicative thereof as exhibited in Fig. 4 and disclosed at column 16, lines 29-45 of Salminen. However, as previously pointed above in connection with the obviousness rejection of claims 1, 2, 6, 7, 11-12, and 16-17, even if Salminen's GSM network were comparable to the claimed architecture, which is not admitted, the Examiner's further statements are inaccurate for the same reasons given above. The claimed phrase "a certain load condition exists" has been modified to read "a certain type of load condition exists from among a plurality of different types of load conditions indicative of the nature of the type of load condition" in both independent claims 21 and 23. Additionally, the determining step of claim 21 and the means for determining in claim 23 have been amended to make it clear that in addition to the determination that a certain type of load condition exists, a *common measurement load value* is also determined. The common measurement load value refers to the common measurement report and values discussed in the Background of the Invention section of the present disclosure and elsewhere in the Best Mode section. Again, none of this is shown or suggested by Salminen.

The passages cited by the Examiner at column 16, lines 29-45 refer to signaling in the direction from the second radio network to the first radio network, not the reverse, i.e., not in the direction as claimed in the rejected claims 21-23.

Therefore, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to modify Riihinen et al with (a) that certain load condition exists using a measurement report and in addition, and (b) a proposed action using an information element as disclosed by Salminen for the purpose of properly balancing a load between two network controllers.

Withdrawal of the 35 U.S.C. § 103 rejection of claims 21-23 is requested.

The objections and rejections of the Office Action of June 30, 2004, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1-24 to issue is solicited.

Respectfully submitted,



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